

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
901 N. 5TH STREET
KANSAS CITY, KANSAS 66101

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ENVIRONMENTAL PROTECTION
AGENCY-REGION VII
REGIONAL HEARING CLERK

In the Matter of)

Lederle Machine Company)
830 Jefferson Street)
Pacific, Missouri 63069)

Docket No. CAA-07-2002-0154

RESPONDENT)

CONSENT AGREEMENT

)
AND

)
FINAL ORDER
)

PRELIMINARY STATEMENT

This proceeding for the assessment of a civil penalty was initiated on June 11, 2002, pursuant to Section 113(d) of the of the Clean Air Act, ("the Act"), 42 U.S.C. § 7413(d), when Complainant issued a Complaint and Notice of Opportunity For Hearing ("Complaint") to Respondent, charging violation of the National Emission Standards for Hazardous Air Pollutants (NESHAP), and specifically the National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N, promulgated pursuant to Section 112 of the Act, 42 U.S.C. § 7412. The Complaint proposed a civil penalty of One Hundred and Fifty-five Thousand and Sixty-nine Dollars (\$155,069) for these violations.

The parties subsequently entered negotiations in an attempt to settle the allegations contained in the Complaint; this Consent Agreement and Final Order is the result of such negotiations.

CONSENT AGREEMENT

1. For purposes of this proceeding, Respondent admits the jurisdictional allegations of the Complaint and neither admits nor denies the specific factual allegations contained in the Complaint.

2. Respondent certifies by the signing of this Consent Agreement and Final Order that to the best of its knowledge, Respondent's facility is presently in compliance with all requirements of the National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N.

3. Respondent waives its right to a judicial or administrative hearing on any issue of fact or law set forth in the Complaint.

4. Respondent and EPA agree to conciliate this matter without the necessity of a formal hearing and to bear their respective costs and attorney's fees.

5. Following issuance of the Complaint, Respondent submitted financial records demonstrating that the Respondent did not have the ability to pay the penalty proposed in the Complaint.

6. Nothing contained in the Final Order shall alter or otherwise affect Respondent's obligation to comply with all applicable federal, state and local environmental statutes and regulations and applicable permits.

7. The undersigned representative of Respondent certifies he or she is fully authorized to enter the terms and conditions of this Consent Agreement and Final Order and to execute and legally bind Respondent to it.

8. Respondent consents to the issuance of the Final Order hereinafter recited and consents to the payment of the civil penalty as set forth below.

9. Respondent understands that the failure to pay any portion of the mitigated civil penalty assessed herein in accordance with the provisions of this Order may result in commencement of a civil action in Federal District Court to recover the full remaining balance, along with penalties and accumulated interest.

10. The settlement pursuant to this Consent Agreement shall resolve Respondent's liability for Federal civil penalties for the violations and facts alleged in the Complaint.

FINAL ORDER

Pursuant to the provisions of the Clean Air Act, 42 U.S.C. § 7401 and based upon the information set forth in this Consent Agreement, IT IS HEREBY ORDERED THAT:

1. Respondent shall pay a mitigated civil penalty of Twenty-Five Thousand Eight Hundred Dollars (\$25,800.00). The civil penalty will be paid in twelve (12) payments of Two Thousand One Hundred and Seventy-three Dollars and Twenty Cents (\$2,173.20) each. The first payment will be due on or before March 20, 2003. Each succeeding payment will be due on the 20th day of the following month. Payments made by Respondent shall identify the Respondent

by name and docket number and shall be made by certified or cashier's check payable to the
United States Treasury and remitted to:

Mellon Bank
EPA - Region 7
Regional Hearing Clerk
P.O. Box 360748M
Pittsburgh, PA 15251

2. A copy of each check shall be sent to:

Kent Johnson
EPA - Region VII
Office of Regional Counsel
901 N. 5th Street
Kansas City, Kansas 66101

3. Failure to submit any of the required payments by the respective due date will result in the entire remaining balance becoming immediately due and payable, along with any costs, handling charges, penalties, and accumulated interest.

4. This Final Order shall apply to and be binding upon Respondent, its agents, successors and assigns. Respondent shall ensure that its directors, officers, employees, contractors, consultants, firms or other persons or entities acting under or for it with respect to matters included herein comply with the terms of this Consent Agreement and Final Order.

5. This Final Order shall be effective upon receipt by Respondent of a fully executed copy hereof. All time periods herein shall be calculated therefrom unless otherwise provided in this Final Order.

6. This Final Order shall remain in full force and effect until such time as Respondent pays EPA the civil penalty herein, plus any applicable interest, late payment handling charges, or

penalties for non-compliance with this Final Order, that may become due pursuant to the terms set forth above.

7. Respondent and complainant shall bear their own costs and attorneys' fees incurred as a result of this matter.

COMPLAINANT:
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

2/27/03
Date

By William A. Spratlin
William A. Spratlin
Director
Air, RCRA and Toxics Division

2/24/03
Date

By Kent Johnson
Kent Johnson
Assistant Regional Counsel

RESPONDENT:
LEDERLE MACHINE COMPANY

2/18/03
Date

By Bill Reichard

Title Vice President

IT IS SO ORDERED.

3/3/03
Date

Karina Borrromeo
~~Robert L. Patrick~~ Karina Borrromeo
Regional Judicial Officer

IN THE MATTER OF Lederle Machine Company,
Docket Nos. CAA-07-2002-0154

CERTIFICATE OF SERVICE

I certify that the foregoing Administrative Orders on Consent were sent this day in the following manner to the addressees:

Copy hand delivered to
Attorney for Complainant:

Kent Johnson
Assistant Regional Counsel
Region VII
United States Environmental Protection Agency
901 N. 5th Street
Kansas City, Kansas 66101

Copy by Certified Mail,
Return Receipt Requested, to:

Deborah A. Lederle
830 Jefferson Street
PO Box 426
Pacific, Missouri 63069

Dated: March 3, 2003

Kathy Robinson by Debby White
Kathy Robinson
Regional Hearing Clerk